

**SUBCHAPTER A : REQUIREMENTS FOR APPLICATIONS FOR
AMENDMENTS TO WATER USE PERMITS AND EXTENSIONS OF TIME**

§295.71. Applications To Amend a Permit.

An applicant for an amendment to a water use permit or certificate of adjudication shall file an application prepared in the manner of an original application for a permit. However, the title of the application should be altered to reflect the fact that it is a request for an amendment. A proposed amendment, including an amendment on the motion of the executive director, shall be recorded in the same manner as a permit application.

§295.72. Applications for Extensions of Time.

(a) If construction work cannot be commenced or completed within the time periods established by a permit, the permittee may, before the expiration of the time period to commence or complete construction, apply for an extension of time in order to preserve the permit. Applications shall be in writing, shall be received by the executive director before the expiration date, and shall set forth the reasons why construction work could not be commenced or completed within the time required. Estimated time of commencement or completion also shall be set out. The application must also contain reasons why the permit should not be forfeited if the commission finds that sufficient due diligence has not been demonstrated.

(b) The commission may grant an extension of the time to commence or complete construction for a reasonable and necessary period if the appropriator demonstrates due diligence towards such commencement or completion and reasonable cause exists for failure to meet the authorized time limitations. The determination of whether an extension should be granted or the right is forfeited is a question of fact to be determined on a case-by-case basis. Due diligence does not require unusual or extraordinary effort, but it does require a steady application of effort that is usual, ordinary, and reasonable under the circumstances and evidences prosecution of such efforts in good faith. Reasonable causes for delay include, but are not limited to, the operation of legal proceedings or other causes which were not within the reasonable control of the permittee and which were reasonably unforeseeable at the time the appropriation or the last extension, whichever is applicable, was granted by the commission. Delay in commencement or completion of construction because of financial hardship shall not, by itself, constitute sufficient cause for the granting of an extension.

(c) Consideration by the commission of an application to extend the time for commencement or completion of construction shall include whether the appropriation shall be forfeited for failure by the applicant to demonstrate sufficient due diligence and justification for delay. If the application for extension is denied, the appropriation may also be forfeited as ordered by the commission.